IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4981 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHAT AMICHANDBHAI LAXMANBHAI

Versus

SARVODAYA NAGRIK SAHKARI BANK 3RD SPECIAL LAND ACQUISITION

Appearance:

MRS MADHUBEN SHARMA for Petitioner

MR JV JAPEE for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2, 3, 4

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/02/2001

ORAL JUDGEMENT

#. Rule. Mr.Japee waives service of rule on behalf of the respondent No.1. The matter is taken up for final hearing today.

#. The petitioner has challenged the order of the Cooperative Tribunal passed in Appeal No.283/97. The respondent - bank had filed the suit against the present petitioner in which exparte order was passed. The petitioner herein thereafter filed an application for setting aside the exparte order, being Application No.8/97. The Board of Nominees after setting aside the exparte decree, restored the original proceedings on file by imposing certain conditions. That order was challenged by way of appeal by the present petitioner. The Tribunal dismissed the said appeal. However, for depositing Rs.40,000/- three months' time was given. The said order is impugned in the present special civil application.

#. It is stated by Mr.Japee that, dues of the bank are almost admitted by the petitioner, and therefore, there was no question to set aside the decree which was already passed. He submitted that, in any case, in view of the fact that, there is no dispute about the amount dues, this court should not interfere with the order by which Rs.40000/- was ordered to be deposited by the petitioner. So far as the bank is concerned, the bank has not challenged the order restoring the original proceedings and that order has become final. Now, in view of the facts and circumstances of the case, it seems that, asking the petitioner to deposit Rs.40000/- is little bit on the higher side. In the facts and circumstances of the case, therefore, I reduce the said amount to Rs.25,000/-. Effect of this order is that the present petitioner now is directed to deposit Rs.25,000/- instead of Rs.40,000/- as ordered by the Board of Nominees. The said deposit of Rs.25,000/- is to be deposited in the bank on or before 30.4.2001. It is clarified that, if such deposit is not made within the aforesaid period, Application No.8/97 (Restoration Application) shall stands dismissed. If the aforesaid amount is deposited by the aforesaid time, the matter to be proceeded on merits by the Board of Nominees. The petition is allowed to the aforesaid extent. Rule is made absolute to the aforesaid extent with no order as to costs.

(P.B.Majmudar,J)
(pathan)